

EXECUTION COPY

ESCROW AGREEMENT

THIS ESCROW AGREEMENT, dated as of December, 31, 2002 (the "Agreement"), by and between the KINGS RIVER CONSERVATION DISTRICT (the "District"), and the BNY Western Trust Company (the "Escrow Agent"), in its capacity as Escrow Agent hereunder;

WITNESSETH:

WHEREAS, the Governor of the State of California, acting on behalf of the agencies, departments, subdivisions, boards, and commissions of the executive branch of the State of California, including without limitation the California Department of Water Resources; the California Electricity Oversight Board; the California Public Utilities Commission; the People of the State of California, by and through the Attorney General; The Williams Companies, Inc.; and Williams Energy Marketing & Trading Company and other named parties entered into a Settlement Agreement as of November 11, 2002 (the "Settlement Agreement"),

WHEREAS, certain payments were made to the Attorney General pursuant to the Settlement Agreement;

WHEREAS, the Attorney General is willing to advance certain moneys in escrow for the development of a generating facility in the District;

WHEREAS, the Escrow Agent has agreed to serve as escrow agent with respect to such moneys;

WHEREAS, the parties wish to set forth herein the undertakings of the parties with respect to the matters set forth above,

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

Section 1. Definitions of Specific Terms. Unless the context shall clearly indicate some other meaning or may otherwise require, the terms defined in this Section 1 shall, for all purposes of this Agreement have the meanings herein specified, with the following definitions to be equally applicable to both the singular and plural forms of any terms herein defined and *vice versa*.

"Authority" means the California Consumer Power and Conservation Financing Authority.

“Authorized Authority Representative” shall mean the person at the time designated by written certificate furnished to the Escrow Agent containing the specimen signature of such person and signed on behalf of the Authority, which certificate may also designate one or more alternates for such person.

“Authorized District Representative” shall mean the person at the time designated by written certificate furnished to the Escrow Agent containing the specimen signature of such person and signed on behalf of the District by the President of the District, or by the Vice President of the District. Such certificate shall designate an alternate or alternates.

“Authorized Department Representative” shall mean the Deputy Director or such person as authorized by a certificate provided to the District and the Escrow Agent containing the specimen signature of such person and signed on behalf of the Department by the Deputy Director, which certificate may also designate one or more alternates for such person.

“Department” means the Department of Water Resources with respect to its responsibilities pursuant to the AB 1X regarding the Electric Power Fund (as defined in AB 1X) separate and apart from its powers and responsibilities with respect to the State Water Resources Development System.

“Development Costs” means Development Costs as defined in Section 4 of this Agreement.

“Escrow Account” means the special fund designated as the “Kings River Conservation District Electric Generating Project Development Escrow Account” created and established under, and to be held and administered by the Escrow Agent as provided in, Section 2 of this Agreement.

“Escrow Agent” shall mean the BNY Western Trust Company or any successor thereto.

“Escrow Amount” means the amount received pursuant to Section 2.03 of the Implementation Agreement.

“EPC Contract” means EPC Contract as defined in the Implementation Agreement.

“Facility” means an electric generation facility consisting of the two (2) LM 6000 Gas Turbine Generator Sets designated as Unit No. 5 and Unit No. 6 in the GE Agreement to be located in the District with all other property, structures, equipment necessary for the generation and transmission of power to the Department in accordance with the Power Purchase Agreement.

“Facility Agreements” shall mean this Agreement, the Power Purchase Agreement, the EPC Contract, the Management Agreement(s) and the Implementation Agreement.

“GE Agreement” means the GE Agreement as defined in the Implementation Agreement.

“Government Obligations” shall mean non-callable direct obligations of, or obligations the timely payment of the principal of and interest on which is unconditionally guaranteed by, the United States of America.

“Implementation Agreement” means the Implementation Agreement among the Attorney General of the State of California, the District, the Authority and the Department.

“Investment Securities” shall mean any of the following which at the time are legal investments under the laws of the State for the moneys held hereunder:

(i) direct obligations of (including obligations issued or held in book-entry-form on the books of the Department of the Treasury), or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America; or

(ii) money market funds registered under the federal Investment Company Act of 1940, whose shares are registered under the federal Securities Act of 1933, the funds of which are exclusively invested in investments described in (i) through (x) herein, and having a rating by S&P of “AAAm-G”, “AAAm” or “AAm” and government short-term fixed income security mutual funds having a rating by S&P of “AAAF” or “S1” or better.

“Management Agreement(s)” means Management Agreement(s) as defined in the Implementation Agreement.

“Moody’s” shall mean Moody’s Investors Service, its successors and their assigns, and, if such corporation shall for any reason no longer perform the functions of a securities rating agency, “Moody’s” shall be deemed to refer to any other nationally recognized rating agency designated by the Escrow Agent.

“Power Purchase Agreement” means Power Purchase Agreement as defined in the Implementation Agreement.

“S&P” shall mean Standard & Poor’s Ratings Group, its successors and their assigns, and, if such corporation shall for any reason no longer perform the functions of a securities rating agency, “S&P” shall be deemed to refer to any other nationally recognized rating agency designated by the Escrow Agent.

“State” shall mean the State of California.

Section 2. Escrow Account; Appointment of Escrow Agent. There is hereby created and established a special escrow fund to be designated the “Kings River Conservation District Electric Generating Project Development Escrow Account” (hereinafter referred to as the “Escrow Account”). BNY Western Trust Company is hereby appointed Escrow Agent

hereunder. The Escrow Agent hereby accepts its appointment and agrees to act as Escrow Agent under the terms and conditions of this Agreement.

Section 3. Deposits to and Application of Escrow Account. There shall be deposited into the Escrow Account from time to time the Escrow Amount, which represents the amount of the proceeds derived pursuant to Section 2.03 of the Implementation Agreement, which, pursuant to Section 5 of this Agreement, is to be used and applied solely to the payment of the Development Cost of the Facility in accordance with the provisions hereof.

Section 4. Development Costs. As used in this Agreement the term “Development Costs” means all pre-construction development costs related to Facility development (but not acquisition, construction, or financing) and determined to be reasonable and necessary pursuant to Section 2.04 of the Implementation Agreement, which, and shall include but not be limited to:

(a) Payment of the cost of any title report required by the Implementation Agreement and any fees for any title curative documents needed to perfect or protect the title of the District to land acquired with respect to the Facility and the fees and expenses in connection with any actions or proceedings that the District may deem desirable to bring in order to perfect or protect the title of the District to land acquired with respect to the Facility;

(b) Payment of expenditures in connection with the preparation of planning, engineering and other studies, architectural drawings, surveys, tests, plans and specifications for the Facility, whether preliminary or otherwise, and all other preliminary work necessary or incidental to the development of the Facility;

(c) Payment of expenditures in connection with California Energy Commission or other governmental approval related to Facility location on the site, the cost of the Environmental Audit, as defined in the Implementation Agreement, other expenses to secure the site (but not including acquisition, demolition, grading or similar activities);

(d) Payment of the fees, if any, for architectural, engineering and supervisory services with respect to the development of the Facility;

(e) Payment for labor, services, materials, supplies, machinery, equipment and apparatus used or furnished in site improvement of land;

(f) Payment, as such payments become due, of the fees and expenses (including reasonable counsel fees and expenses and disbursements) of the Escrow Agent properly incurred under this Agreement;

(g) Payment of costs or estimates of costs and economic and environmental feasibility reports whether preliminary or otherwise, including the Environmental Audit under and as defined in the Implementation Agreement; and fees, costs and expenses of appraising, printing, advice, accounting and fiscal services, financial consultants, attorneys, clerical help and other independent contractors, agents and employees relating to or in respect of the development of the Facility;

(h) Payment of the cost of obtaining all regulatory approvals, including the cost of emission reduction credits (“ERCs”) or options therefor; provided, however, that any payment for ERCs or options therefor shall be expressly subordinate to any and all other Development Costs paid for through the Escrow Account;

(i) Payment of the cost of shipment and storage of the LM 6000 Gas Turbine Generator Sets and the insurance thereof during any shipment or storage;

(j) Payment of the legal and administrative costs of negotiating, obtaining approvals for and preparing the Facility Agreements or any bid or solicitation documents in connection therewith;

(k) Payment of fees and expenses of the Authority (including reasonable legal and administrative costs of negotiating, reviewing, and/or executing any agreements or other documents relating thereto) with respect to the Authority’s duties and obligations under the Implementation Agreement; and

(l) Payment of fees and expenses of the Department (including reasonable legal and administrative costs of negotiating, reviewing, and/or executing any agreements or other documents relating thereto).

Section 5. Requisitions. (a) The payments referred to in the preceding subparagraphs (a) through (j) of Section 4 may be made only upon receipt by the Escrow Agent of a written requisition for such payment signed by the appropriate Authorized District Representative and the appropriate Authorized Authority Representative with respect to Development Cost expenditures relating to such Facility:

(i) setting forth the requisition number; the name of the person, firm or corporation to whom payment is due or has been made (which may be the District or the Department); the amount to be paid;

(ii) certifying that each obligation, item of cost or expense mentioned in such requisition is then due and payable and constitutes a “Development Cost” under Section 4 hereof; and that the payment is a proper charge against the Escrow Account and has not been the basis of any previous final payment; and

(iii) with respect to any District requisition, certifying that that the District has satisfied its obligations under Section 2.04 of the Implementation Agreement to obtain approval of the Authority for the submitted requisition.

(b) Upon receipt of each requisition and certificate referred to in subsection (a), the Escrow Agent shall pay each such obligation out of the Escrow Account. Payments pursuant to Section 5 of this Agreement shall be made only to the extent of funds available in the Escrow Account and invested in Permitted Investments. Development Costs properly incurred before the termination of the Power Purchase Agreement shall be paid pursuant to requisition notwithstanding the termination of the Power Purchase Agreement.

(c) Any requisition for Development Costs of the Department shall be submitted by the Authorized Department Representative to the District. The Authorized District Representative shall countersign and submit such requisition to the Escrow Agent for payment to the Department.

Section 6. Instructions to Escrow Agent; Investment of Funds. (a) Only two types of submissions may be made to the Escrow Agent hereunder: (a) a requisition pursuant to Section 5, and (b) an investment instruction pursuant to this Section 6.

(b) Moneys in the Escrow Account shall be continually invested or reinvested by the Escrow Agent at the direction of the District, to the extent reasonable and practicable, in Investment Securities maturing in the amounts and at the times as determined by the Escrow Agent so that the payments required to be made from the Escrow Account may be made when due. The record or registered owner of any securities or other investments in which all or any part of any of the Escrow Account shall from time to time be invested shall be the Escrow Agent.

(c) The Escrow Agent shall be authorized to sell any investment when necessary to make the payments to be made from the funds and accounts therein. All earnings on and income from moneys in the Escrow Account shall be deposited in the Escrow Account. All Investment Securities shall constitute a part of the Escrow Account.

Section 7. Right to Resign; Removal. The Escrow Agent may resign and be discharged from its duties or obligations hereunder by giving notice in writing of such resignation specifying a date when such resignation shall take effect. The Attorney General shall have the right to remove the Escrow Agent at any time by written notice to the parties to this Agreement specifying a replacement Escrow Agent.

Section 8. Transfer of Funds; Termination. (a) Subject to subsection (c), all moneys remaining in the Escrow Account after (i) completion of development of the Facility and the payment in full of all Development Costs, (ii) the exercise by the District of its option pursuant to Section 3.01(b) or (c) of the Implementation Agreement, (iii) termination of the Power Purchase Agreement pursuant to Section 4.02 thereof, shall be paid to the Electric Power Fund.

(b) Notwithstanding anything to the contrary herein contained, following the occurrence and during the continuance of an Event of Default by the District under and as defined in the Implementation Agreement, the Escrow Agent shall not make any distributions from the Escrow Account for Development Costs incurred after the occurrence of such Event of Default. Subject to subsection (c), upon the occurrence of an Event of Default by the District under the Implementation Agreement, in the event the Attorney General terminates the District's rights to make requisitions and takes possession of the Escrow Fund, the Escrow Agent shall transfer all money in the Escrow Fund for deposit in the Electric Power Fund.

(c) The Escrow Agent shall retain in the Escrow Account and shall not transfer amounts necessary to pay any requisition submitted in accordance with Section 5 and amounts sufficient for the payment of Development Costs incurred but (a) for which a requisition has not been submitted in accordance with Section 5, or (b) which are not then due and payable. Upon

the occurrence of the events described in this Section 8 and the full payment of all Development Costs and the application of all other moneys in the Escrow Account in accordance with the provisions of this Section 8, this Agreement shall terminate.

Section 9. Escrow Agent. (a) The duties and obligations of the Escrow Agent hereunder shall be determined solely by the express provisions of this Agreement and the Escrow Agent shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Agreement.

(b) The Escrow Agent shall not be liable for any depreciation in the value of the Investment Securities acquired hereunder or any loss suffered in connection with any investment of funds made by it in accordance herewith, including, without limitation, any loss suffered in connection with the sale of any investment pursuant hereto.

(c) In making any such payments from the Escrow Account, the Escrow Agent may rely on any such requisitions and certificates delivered to it pursuant to this Section 9 and the Escrow Agent shall be relieved of all liability with respect to any such payments made in accordance with such requisitions and certificates.

(d) The Escrow Agent shall be fully protected in acting on and relying upon any written advice, certificate, notice, direction, instruction, request, or other paper or document which the Escrow Agent in good faith believes to be genuine and to have been signed or presented by the proper party or parties, and may assume that any person purporting to give such advice, certificate, notice, direction, instruction or request or other paper or document has been duly authorized to do so. The Escrow Agent assumes no responsibility for the genuineness, validity, value or collectibility of any Permitted Investment, but shall take no action which would adversely affect such genuineness, validity, value or collectibility.

(e) The Escrow Agent may seek the advice of legal counsel in the event of any dispute or question as to the construction of any of the provisions of this Agreement or its duties hereunder, and it shall incur no liability and shall be fully protected in respect of any action taken, omitted or suffered by it in good faith in accordance with the opinion of such counsel. If a controversy arises hereunder, as to whether or not or to whom the Escrow Agent shall deliver amounts available in the Escrow Account, or as to any other matter arising out of or relating to this Agreement or the funds deposited hereunder, the Escrow Agent shall not make any delivery of amounts available in the Escrow Account but shall retain it without liability to anyone until the rights of the parties to the dispute shall have finally been determined pursuant to Section 8 hereof. The Escrow Agent shall be entitled to assume that no such controversy has arisen unless it had received conflicting written notices from the District.

(f) The Escrow Agent shall be reimbursed and indemnified for, and held harmless against, any loss, liability or expense, including but not limited to reasonable counsel fees, incurred without bad faith or willful misconduct or gross negligence on the part of the Escrow Agent arising out of or in connection with its acceptance of, or the performance of its duties and obligations under this Agreement as well as the costs and expenses of defending against any

claim or liability arising out of or relating to this Agreement; provided that the Escrow Agent shall be liable for a loss resulting from its own gross negligence, bad faith or willful misconduct with respect to the handling of funds. Payments to the Escrow agent pursuant to this subsection (f) shall be limited to the amounts available in the Escrow Account.

(g) The Escrow Agent shall not have any obligation by virtue of this Agreement to spend any of its own funds or to take any action which could, in its discretion, result in any costs or expenses being incurred by it.

(h) The Escrow Agent shall be entitled to receive compensation in an amount to be agreed upon by separate written agreement for its services as Escrow Agent hereunder.

(i) The provisions of this Section 9 shall survive any termination or expiration of this Agreement.

Section 10. No Liens or Encumbrances. Neither the District nor the Escrow Agent will not grant or permit to be imposed on the Escrow Account or any Investment Securities or moneys therein any lien or other encumbrance.

Section 11. Right to Resign; Removal. The Escrow Agent may resign and be discharged from its duties or obligations hereunder by giving notice in writing of such resignation specifying a date when such resignation shall take effect. No such resignation shall be effective until a replacement Escrow Agent has agreed in writing to be bound by the terms of this Agreement as Escrow Agent and the Escrow Account has been transferred to such replacement Escrow Agent.

Section 12. Governing Law. This Agreement shall be governed by and construed in accordance with the Laws of the State of California, without regard to the conflicts of laws rules thereof.

Section 13. Amendment. Neither this Agreement nor any provision hereof may be amended, waived, discharged or terminated except by an instrument in writing signed by the Escrow Agent, the District and the Authority.

Section 14. Counterparts. This Agreement may be executed in any number of counterparts, and upon execution by the parties, each executed counterpart shall have the same force and effect as an original instrument and as if the parties had signed the same instrument. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon, and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more signature pages.

Section 15. Transfer of Interest in Agreement. (a) No party shall voluntarily assign or transfer this Agreement or any portion thereof, nor any of the obligations or rights hereunder, without the prior written consent and approval of the other party and the Attorney General.

(b) In the event the Authority exercises its option pursuant to Section 4.01(a) of the Implementation Agreement, the Authority shall immediately and automatically succeed to the District's rights hereunder.

Section 16. Severability. In the event that any of the terms, covenants or conditions of this Agreement, or the application of any such term, covenant or condition, shall be held invalid as to any person or circumstance by any court, regulatory agency, or other regulatory body having jurisdiction, all other terms, covenants or conditions of this Agreement and their application shall not be affected thereby, but shall remain in force and effect unless a court, regulatory agency, or other regulatory body holds that the provisions are not separable from all other provisions of this Agreement.

Section 17. Third Party Beneficiaries. (a) Except as provided in (b), this Agreement shall not be construed to create any rights in, or to grant remedies to, any third party as a beneficiaries of this Agreement or of any duty, obligation or undertaking established herein.

(b) The Department, the Authority and the Attorney General shall be third party beneficiaries hereunder to the extent of their interest herein.

Section 18. Headings. The headings contained in this Agreement are solely for the convenience of the parties and should not be used or relied upon in any manner in the construction or interpretation of this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representative.

BNY WESTERN TRUST COMPANY, as Escrow Agent

By: _____
Name:
Title:

KINGS RIVER CONSERVATION DISTRICT

By: _____
Name: David Orth
Title: General Manager